

## § 8.34

title 38 U.S.C., amendments and supplements thereto, and applicable Department of Veterans Affairs regulations promulgated pursuant thereto, all of which together with the insured's application, required evidence of health, including physical examination, if required, and tender of premium shall constitute the contract.

[61 FR 29293, June 10, 1996]

### APPEALS

#### § 8.34 Appeal to Board of Veterans Appeals.

(a) The provisions of Part 19 of this chapter will be followed in connection with appeals to the Board of Veterans Appeals involving questions pertaining to the denial of applications for insurance, total disability income provision, or reinstatement; disallowance of claims for insurance benefits; and decisions holding fraud or imposing forfeiture. Notice to the applicant or claimant and his representative, if any, of the right to appeal will be sent by the insurance activity having jurisdiction over the case, at time action of denial, disallowance, or forfeiture is taken.

(b) When an appeal to the Board of Veterans Appeals is initiated by a notice of disagreement, any unpaid premiums, normally due under the policy from effective date of issue or reinstatement (as appropriate), will become an interest-bearing lien, enforceable as a legal debt due the United States and subject to all available collection procedures in the event of favorable action by the Board.

(c) Where the adverse action from which appeal is taken involves a change in or addition to insurance currently in force, premium payments must be continued on the existing contract.

[33 FR 3176, Feb. 20, 1968. Redesignated at 61 FR 29290, June 10, 1996]

#### § 8.35 Total disability for twenty years or more.

Where the Disability Insurance Claims activity has made a finding of total disability for insurance purposes and it is found that such disability remained continuously in effect for 20 or more years, the finding will not be discontinued thereafter, except upon a

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showing that such a determination was based on fraud. The 20-year period will be computed from the date the continuous total disability commenced, as determined by the Disability Insurance Claims activity.

[27 FR 11893, Dec. 1, 1962. Redesignated at 61 FR 29290, June 10, 1996]

#### § 8.36 Guardian: definition and authority.

(a) *Definition.* For the purpose of this section, the term *guardian* includes any fiduciary certified by the appropriate Veterans Services Officer under § 13.55 of this title to receive benefits in a fiduciary capacity for an insured or beneficiary.

(b) *Authority.* For the purpose of this part, a guardian of an insured or beneficiary shall have authority to: Apply for insurance; apply for conversion of a policy or change of plan; reinstate a policy; withdraw dividends held on deposit or credit; select or change a dividend option; obtain a policy loan; cash surrender a policy; authorize a deduction from benefits or allotment from military retired pay to pay premiums; apply for and receive payment of the proceeds on a matured policy; select or change the premium payment option; apply for waiver of premiums and total disability income benefits; select or change settlement options for beneficiaries; assign a beneficiary's interest as provided under section 1918 of title 38 U.S.C.

(Authority: 38 U.S.C. 1906)

[56 FR 9627, Mar. 7, 1991. Redesignated at 61 FR 29290, June 10, 1996]

### PART 8a—VETERANS MORTGAGE LIFE INSURANCE

#### Sec.

8a.1 Definitions.

8a.2 Maximum amount of insurance.

8a.3 Effective date.

8a.4 Coverage.

AUTHORITY: 38 U.S.C. 501, and 2101 through 2106, unless otherwise noted.

SOURCE: 37 FR 282, Jan. 8, 1972, unless otherwise noted.

#### § 8a.1 Definitions.

(a) The term *housing unit* means a family dwelling or unit, together with

the necessary land therefor, that has been or will be purchased, constructed, or remodeled with a grant to meet the needs of an eligible veteran and of his or her family, and is or will be owned and occupied by the eligible veteran as his or her home, or a family dwelling or unit, including the necessary land therefor, acquired by an eligible veteran to be used as his or her residence after selling or otherwise disposing of title to the housing unit for which his or her grant was made.

(b) The term *Veterans Mortgage Life Insurance (VMLI)* means the mortgage protection life insurance authorized for veterans under 38 U.S.C. 2106.

(c) The term *initial amount of insurance* means the amount of insurance corresponding in amount to the unpaid principal of a mortgage loan outstanding on a housing unit owned or to be acquired by an eligible veteran on August 11, 1971, or on the date of approval of his or her grant made under chapter 21 of title 38 U.S.C., whichever is the later date.

(d) The term *mortgage loan* means any loan, lien, or other indebtedness incurred by an eligible veteran to buy, build, remodel, or enlarge a housing unit, the payment of which loan, lien, or indebtedness is secured by a mortgage lien, or other equivalent security of record, on the housing unit in the usual legal form employed in the community in which the property is situated. The term also includes refinancing of such an indebtedness to avoid a default, to consolidate liens, to renew or extend the time for payment of the indebtedness, and in cases where the housing unit is being bought, built, remodeled, or enlarged by increasing the amount of such an indebtedness.

(e) The term *owned* means the eligible veteran has or will acquire an interest in the housing unit which is:

- (1) A fee simple estate, or
- (2) A leasehold estate, the unexpired term of which, including renewals at the option of the lessee, is not less than 50 years, or
- (3) An interest in a residential unit in a cooperative or a condominium type development which in the judgment of the Under Secretary for Benefits or the Director, Loan Guaranty Service, provides a right of occupancy for a period

of not less than 50 years: *Provided*, The title to such estate or interest is or shall be such as is acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community.

[37 FR 282, Jan. 8, 1972, as amended at 42 FR 43835, Aug. 31, 1977; 61 FR 29027, June 7, 1996]

#### § 8a.2 Maximum amount of insurance.

(a) Each eligible veteran is authorized up to a maximum of \$90,000 in VMLI to insure his or her life during periods he or she is obligated under a mortgage loan, except that, as to an individual housing unit, whenever there is a reduction in the actual amount of insurance in force as provided for in § 8a.4(a) the amount of VMLI thereafter available to insure the life of the same veteran on the same housing unit is permanently reduced by a like amount.

(b) The maximum amount of insurance in force on any one life at one time shall not exceed the lesser of the following amounts:

- (1) \$90,000.
- (2) For insurance issued prior to December 24, 1987, the reduced maximum amount of insurance then available to an eligible veteran.
- (3) The amount of the unpaid principal of the mortgage loan outstanding on the date of approval of the grant on a housing unit then owned and occupied by the eligible veteran, or on a housing unit being or to be constructed or remodeled for the eligible veteran, and such initial amount of insurance may be adjusted upward, subject to the maximum insurance available to the eligible veteran, or downward, depending upon the amount of the mortgage loans outstanding on the date of full disbursement of the grant, or on the date of final settlement of the purchase, construction, or remodeling agreement, whichever date is the later date.

(4) Where an eligible veteran ceases to own the housing unit which was subject to a mortgage loan that resulted in his or her life being insured under VMLI, and becomes obligated under a mortgage loan on another housing unit occupied or to be occupied by the eligible veteran, the amount of the unpaid principal outstanding on the mortgage loan on the newly acquired housing